

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

RULE AMENDMENTS GOVERNING)	Administrative Cause
FISHING GUIDE LICENSES, ROE DEALER)	Number 12-018D
LICENSES, ROE HARVESTER LICENSES)	(LSA Document #12-65(F))
AND MISCELLANEOUS FISHING RULES)	

**AMENDED REPORT ON RULE PROCESSING, CONSIDERATION OF PUBLIC
COMMENTS, ANALYSIS AND RECOMMENDATION REGARDING FINAL
ADOPTION**

1. RULE PROCESSING

For consideration is a proposal to amend rules relating primarily to commercial fishing activities. The majority of these amendments were necessitated by amendments to I.C. 14-22-15 governing fishing guide licenses, previously known as charter fishing boat operator licenses, and I.C. 14-22-13-2.5 relating to the taking, possessing, selling and transporting of roe and roe bearing species. *P.L.165-2011, SEC.16 – 22.*

Also included is the addition of definitions for “inland water” and “seine” at 312 IAC 9-1-9.7 and 312 IAC 9-1-13.5, respectively, as well as proposed amendments to 312 IAC 9-6-2 that will clarify the method of measuring paddlefish and proposed amendments to 312 IAC 9-7-17 to address new statutory requirements associated with fishing guide licenses.

This proposal includes the addition of 312 IAC 9-8-7 to govern roe harvester licenses and the addition of 312 IAC 9-8-8 governing roe dealer licenses. Other proposed amendments, most of which are necessary to the full implementation of the new roe harvester and roe dealer licenses, include the addition of general requirements and definitions at 312 IAC 9-8-1. Proposals to amend 312 IAC 9-8-2 will specify that a roe harvester license is required to take shovelnose sturgeon from waters other than the Ohio River, while proposed amendments to 312 IAC 9-8-6 make correlating amendments specifying that shovelnose sturgeon and paddlefish may only be taken from the Ohio River with a roe harvester license. Proposed amendments to 312 IAC 9-7-

19 further clarifies that a roe harvester license is required to take paddlefish from public water. Other proposed amendments to 312 IAC 9-8-2 identify the inland waters subject to commercial fishing. Technical amendments are proposed for 312 IAC 9-8-4 and 312 IAC 9-8-5 relating to commercial fishing on the Wabash River boundary water and on inland water, respectively. Additional technical amendments are also included.

The Natural Resources Commission (*NRC*) granted preliminary adoption of this rule amendment proposal on May 15, 2012.

The “Notice of Intent” to adopt the proposed rule amendment was posted to the INDIANA REGISTER database website as 20120620-IR-312120381NIA on June 20, 2012. The notice identified Linnea Petercheff, Department of Natural Resources, Division of Fish and Wildlife, as the “small business regulatory coordinator” for purposes of Indiana Code § 4-22-2-28.1.

The Commission caused the information required by I.C. 4-22-2-22.5 to be included within the rulemaking docket maintained on the its Internet website.

As specified by Executive Order, fiscal analyses of the rule proposal were submitted, along with a copy of the proposed rule language and a copy of the posted Notice of Intent, to the Office of Management and Budget on June 27, 2012. In a letter dated July 16, 2012, Adam. M. Horst, Director, Office of Management and Budget, recommended that the proposed rule amendments be approved.

A copy of the economic impact analysis for small business was submitted to the Indiana Economic Development Commission (the “IEDC”) on July 31, 2012. Eric P. Shields, Policy Director for the IEDC, reviewed the analysis and reported favorably to the Commission by an email letter dated September 20, 2012. Later on the same day, the Commission’s Division of Hearings, by email, thanked the IEDC. The response stated in part: “Since you have commented favorably upon the agency’s fiscal analysis, and have suggested no alternatives, it will recommend that the Natural Resources Commission move forward with consideration for

final adoption.” The IEDC’s comments were posted to the Commission’s Website on September 21, 2012 at <http://www.in.gov/nrc/2377.htm>, and were also made available at the public hearing.

The NRC Division of Hearings submitted the rule proposal to the Legislative Services Agency (LSA) along with the “Statement Concerning Rules Affecting Small Business” (also known as the “Economic Impact Statement”) on July 27, 2012. The Notice of Public Hearing was submitted to LSA on July 31, 2012. The Notice of Public Hearing, along with the Economic Impact Statement and the text of the proposed rule was posted to the INDIANA REGISTER database website on August 8, 2012 as 20120808-IR-312120381PRA. Following receipt of an “Authorization to Proceed” from LSA on July 31, 2012, the NRC Division of Hearings also caused a Notice of Public Hearing to be published by the Indianapolis Newspapers, a newspaper of general circulation in Marion County, Indiana, on August 10, 2012. In addition, notice of the public hearing and a summary of the proposed rule changes were published on the NRC’s web-based electronic calendar.

2. REPORT OF PUBLIC HEARING AND COMMENTS

a) Public Hearing Comments

A public hearing was conducted as scheduled on October 2, 2012 at the Ferdinand Indiana Public Library. Sandra Jensen served as the hearing officer. Linnea Petercheff, Brian Schoenung and Tom Stefanavage participated on behalf of the Department’s Division of Fish and Wildlife. Lt. Col. Steve Hunter and Conservation Officer Steve Kinne participated on behalf of the Department’s Division of Law Enforcement. Eight members of the public attended the public hearing. A summary of the verbal comments received at the public hearing have been attached and incorporated by reference as Exhibit A, along with written comments accepted by the hearing officer at the public hearing.

b) Comments Received Outside Public Hearing

An opportunity was provided for the public to submit written comments from approximately May 2012 until October 2, 2012. No written comments were received except those submitted during the public hearing that are included at Exhibit A.

c) Response by the Department of Natural Resources

The Department offered a written response to the public comments on October 12, 2012. A copy of the Department's response is attached as Exhibit B, which is incorporated by reference.

3. ANALYSIS AND RECOMMENDATION

The Indiana General Assembly enacted legislation effective on July 1, 2011 to govern the harvest and sale of roe bearing species, now codified at I.C. 14-22-13-2.5. *P.L.165-2011, SEC.13*. On October 24, 2011, efforts had commenced to develop administrative rules for the implementation of I.C. 14-22-13-2.5, governing the harvest and sale of roe and roe bearing species. *See Administrative Cause No. 11-184D*. While these efforts continued, HB 1279, which contained amendments to I.C. 14-22-13-2.5, was filed for consideration by the 2012 Session of the Indiana General Assembly. Continuing work on the permanent administrative rules was deferred and resumed following after the amendments to I.C. 14-22-13-2.5 were known. *P.L.151-2012, SEC.22*.

Also effective on July 1, 2011 were statutory amendments to numerous sections of I.C. 14-22-15 governing charter fishing boat operator's licenses, now referred to as fishing guide licenses. *P.L.165-2011, SEC. 16 – 21*. On November 17, 2011, efforts began to develop amendments to administrative rules governing fishing guide licenses to achieve consistency with the statutory amendments. *See Administrative Cause No. 11-196D*.

For improved efficiency in fulfilling administrative rule adoption processes it was decided that the administrative rule adoption efforts relating to fishing guide licenses would be combined with those efforts relating to the harvest of roe and roe bearing species. At that time Administrative Cause Nos. 11-184D and 11-196D were closed and the instant Administrative Cause was initiated on March 9, 2012.

It became necessary to establish a temporary rule as authorized at I.C. 4-22-2-37.1 to implement I.C. 14-22-13-2.5 for purposes of the 2011 harvest season for roe bearing species. The

temporary rule was posted to the INDIANA REGISTER database website as 20111207-IR-312110731ERA on December 7, 2011. Activities relating to the harvest of roe bearing species and the processing of roe have continued under the terms of the temporary rule since that time. This temporary rule remains in effect at the time of this report but will expire on December 6, 2012, which date will likely pass before this permanent rule would become effective, if it is acted upon favorably by the Commission. Therefore, the Department intends to submit a revised temporary rule with an effective date of November 1, 2012, that will effectively mirror the relevant portions of this rule amendment proposal.

The addition of 312 IAC 9-8-7 and 312 IAC 9-8-8, will implement I.C. 14-22-13-2.5's establishment of a "roe harvester license" and a "roe dealer's license", respectively. The definition of "inland water" at 312 IAC 9-1-9.7 directly correlates to the addition of this definition at I.C. 14-8-2-131.7. *P.L.151-2012, SEC.7*. Also included are certain amendments that do not result from statutory amendments but were proposed instead to increase clarity and to ease burdens upon license holders. Included among these is the addition of a definition of seine at 312 IAC 9-1-13.5, an amendment to fish measurement methods at 312 IAC 9-6-2 and the institution of the inactive license form that will prevent the submission of reports when commercial fishing has ceased for the remainder of a calendar year. To achieve full implementation of the necessary and useful amendments throughout all of the existing interrelating administrative rules, many correlating amendments were necessitated and throughout the process certain technical and formatting amendments were also identified as being necessary or appropriate.

After the proposed rule amendments were posted to the INDIANA REGISTER database website there were certain errors, which could best be characterized as citation errors, discovered at three locations, 312 IAC 9-8-1(b), (b)(5) and (b)(6). More specifically, within this subsection and subdivisions, the published rule language contains erroneous references to "this section" as follows:

(b) The following definitions apply throughout this section:

...

(5) "Roe dealer" means a person who possesses a valid roe dealer's license issued under this section to purchase, process, transport, and sell roe.

(6) "Roe harvester" means an individual who possesses a valid roe harvester's license issued under this section to harvest, possess, transport, begin processing, and sell, but not purchase, roe.

As stated in 312 IAC 9-8-1(b) reference to "this section" would have the effect of applying the definitions only to 312 IAC 9-8-1 when, in fact, the definitions actually are applicable throughout the entire rule, or 312 IAC 9-8. As stated in 312 IAC 9-8-1(b)(5) and 312 IAC 9-8-1(b)(6), reference to "this section" reflect that a roe dealer's license and a roe harvester license is issued under 312 IAC 9-8-1, when in fact the issuance of a roe dealer's license is governed by 312 IAC 9-8-8 and the issuance of a roe harvester license is controlled by 312 IAC 9-8-7. For these reasons it is recommended that the published rule language be revised to address these citation errors. The proposed revision is reflected and highlighted in Exhibit C.

It was also discovered that the rule amendment as published at 312 IAC 9-8-7(a), which would, as relevant to this discussion, prohibit the taking and possessing of roe-bearing species, which includes bowfin and shovelnose sturgeon, without a roe harvester license would create an inconsistency with sport fishing rules 312 IAC 9-6 and 312 IAC 9-7 that allow sport fishers to take and possess, but not sell, these species. To eliminate this unintended conflict with existing administrative rules it is recommended that the published rule language at 312 IAC 9-8-7(a) be revised as reflected and highlighted in Exhibit C.

Finally, within 312 IAC 9-8-8(d) and (f) a person holding a roe dealer's license is referred to differently as "A license holder under this section" and "A person issued a license under this section", respectively. While these differences may appear insignificant, such seemingly insignificant matters have the capacity to create confusion. For this reason it is offered that the references contained within 312 IAC 9-8-8(d) and (f) be revised to "roe dealer" as is reflected and highlighted in Exhibit C.

The public comments received relate to the rule amendments and additions pertaining to the commercial fishing, the harvesting of roe bearing species and the processing of roe. In a written comment, Randy Merta expressed concern with the published rule language at 312 IAC 9-8-6(i)(2), which states:

(2) Commercial fishing gear cannot be used within fifty (50) yards of the mouth of a stream denoted by a line drawn from point to point across a stream at its farthest most downstream location where its banks meet the bank of the Ohio River at the existing water level or ordinary high watermark, whichever is lowest.

Merta added that the mouth of the streams is “in constant change” and requested that GPS coordinates be used to identify the mouth of the streams for “something more definite.” The Department, concurring that 312 IAC 9-8-6(i)(2) would benefit from clarification, suggested that language referencing the banks of the streams and rivers be deleted. The Department’s response indicates an inability to provide GPS identification of the mouths of streams.

The identification of the mouths of streams by GPS would appear to be the most definitive method of identification and would be seemingly be useful to any commercial fishing license holder on the Ohio River with the capability of identifying the GPS coordinates. However, it is believed that the Department’s recommendation to rely upon the “ordinary high watermark” or the existing water level without reference to the banks of streams will provide a greater degree of clarity than the language as initially published.

David Cox offered a written comment suggesting that an individual holding a valid roe harvester license should be permitted to wash and screen roe taken from legally harvested roe bearing species without the need to possess a roe dealer’s license. Cox elaborated in his oral comment that the washing and screening of the roe increases the length of time that a roe harvester will have to deliver the roe to a roe dealer. Cox also expressed concern that there is nothing contained within the roe dealer’s license rule to authorize another individual to work under that license.

The Department concurred that allowing a roe harvester to wash and screen the roe would not constitute processing and would therefore not be contrary to I.C. 14-22-13-2.5’s requirement that only a roe dealer can process roe. The Department suggested a revision to 312 IAC 9-8-7(f)(8) and (g) to allow roe harvesters to wash and screen roe in accordance with 21 CFR 123 as recommended by Cox.

Other comments received from Cox, reflected at Exhibit B, are either beyond the scope of the present rule amendment proposal or are contrary to I.C. 14-22-13-2.5. For that reason they are not discussed further.

Throughout the comment period there has been no public comment received with respect to the proposed amendments relating to fishing guide licenses.

It is the recommendation of the hearing officer that the rule proposal be granted final adoption with revisions to 312 IAC 9-8-1(b), (b)(5) and (b)(6), 312 IAC 9-8-6(i)(2), 312 IAC 9-8-7(a), (f)(8) and (g), and 312 IAC 9-8-8(d) and (f) as set forth and highlighted in Exhibit C.

Dated: November 13, 2012

Sandra L. Jensen
Hearing Officer

EXHIBIT A

PUBLIC HEARING COMMENT SUMMARY

Randy Merta, Chandler, Indiana

Merta offered that identifying the “mouth of the stream” utilizing the description or definition provided in 312 IAC 9-8-6(i)(2) will be difficult. Focusing primarily upon the confluence of the Wabash River with the Ohio River, Merta explained that it is “ever changing” as a result of erosion noting that the junction of the rivers is gradual instead of being demarked by clearly identifiable “farthest most downstream” point. Merta expounded upon his verbal comment with the following written comment received by the hearing officer at the public hearing.

IN REGARDS TO A ^{STREAM} ~~TWIST~~ (EXAMPLE WABASH RIVER MEETS THE OHIO RIVER).

I HAVE CONCERNS OVER A LINE DRAWN FROM POINT TO POINT ACROSS A STREAM AT ITS FARTHEST MOST DOWNSTREAM LOCATION WHERE ITS BANKS MEET THE BANK OF THE OHIO RIVER...

WHERE THE WABASH MEETS THE OHIO THE MOUTH IS IN CONSTANT CHANGE. SEVERAL YEARS AGO THE POINT FROM INDIANA WAS 200-300 YDS OUT FURTHER IN THE MOUTH THAN WHERE IT IS TODAY. THE MOUTH IS CHANGING YEARLY, SOMETIMES MONTHLY.

I AM ASKING FOR THE MOUTH OF THE WABASH AND OTHER RIVERS THAT FLOW INTO THE OHIO RIVER HAVE GPS ^{RM} ~~COORDINATES~~ NUMBERS DENOTING THE UPSIDE AND DOWNSIDE OF THE MOUTH.

I BELIEVE THE CURRENT RULE IS SUBJECT TO INDIVIDUAL ~~PERCEPTION~~ PERCEPTION.

I AM LOOKING FOR SOMETHING MORE DEFINITIVE.

THANKS

RANDY MENTA
CHANDLER IN
812 217 6326

David Cox, English, Indiana

The proposed rule language at 312 IAC 9-8-7(f)(8) prohibits a roe harvester from screening eggs and Cox suggested that a roe harvester be allowed to wash and screen the eggs at an HACCP facility. He explained that by washing and screening the eggs a roe harvester is provided additional time to get them delivered to a roe dealer.

Cox also suggested that some type of “processor license” be made available at a reasonable fee for individuals holding valid roe harvester licenses. He offered that the purpose of the processor license would be to allow a roe harvester who has an approved HACCP facility to process the roe to sell to a roe dealer. Under the present proposed rule only a person with a valid roe dealer’s license can process roe but a roe dealer may also purchase, sell, receive and transport roe. The “processor license” suggested by Cox would allow a roe harvester to engage in the processing of roe but would not allow for the sale and purchase as is allowed for a roe dealer. Cox noted that a roe dealer’s license can be held by a “person”, which would include a corporation that would have employees processing the roe and conducting other activities under the license. However, Cox observed that the “helper” requirements are not applicable to a roe dealer. Cox questioned whether the holder of a roe dealer’s license, whether a corporation with employees or a family business operated solely by family members, would be liable for the actions of those persons acting under the license. After some discussion the hearing officer expressed the opinion that the rule, as proposed, could be interpreted in that way.

Cox advised of his opinion that the roe harvester and roe dealer’s license fees are too high. The hearing officer explained that because the license fees are set in the statute the fees could only be changed through a statutory amendment. The hearing officer elaborated that the Natural Resources Commission is without authority to override legislative action or take action contrary to the statute.

Cox suggested that the season for harvesting roe be changed from “November 1 through April 30” to “November 15 through May 15”. Cox acknowledged that some roe harvesters would not agree with this suggestion but added that after November 15th “it’s colder”, the “fish do not die so bad” and the “eggs are better.” He added that in most years this change would have the effect of shortening the season by two weeks because in most years it is too warm to harvest roe after April 30th; however, Cox noted that some years it remains cold enough to harvest into May.

Cox also suggested that the requirement to maintain paperwork be reduced from five years to two years. He explained that he submits 33 reports per month and storage of the records for five years is burdensome. He also expressed that since the licenses cost \$6,125.00, the Department should be obligated to provide additional copies of the required state forms.

Cox, joined by Roy Elder of Evansville, Indiana, provided the following written statement to the hearing officer at the public hearing.

allow Licensed fishermen to remove, screen and wash his eggs at his own HACCP Facility, before taking to a Licensed dealer for processing.

allow other people to work under a dealers License needs to ~~be~~ be kept in the rules.

The fishermen need to process their own catch in their own HACCP approved Facility like they have done for years. We don't understand why it was stopped. These facilities are inspected once or twice a year. Every record the fishermen keep are inspected by F.D.A. These inspections sometimes take two days to complete.

Submitted by:

Paul Cox

Roy Elder

EXHIBIT B

DNR RESPONSE

Public comments were received regarding the location of the mouth of a stream, such as where the Wabash River meets the Ohio River. As a result, the DNR believes that removing the reference to banks of the rivers and simply referencing the water level will clarify the intent. The DNR is not able to include GPS coordinates for every mouth of a stream that flows into the Ohio River at this time.

Ordinary high watermark is already defined in rule as follows:

312 IAC 1-1-26 "Ordinary high watermark" defined

Authority: IC 14-10-2-4

Affected: IC 14; IC 25

Sec. 26. "Ordinary high watermark" means the following:

(1) The line on the shore of a waterway established by the fluctuations of water and indicated by physical characteristics. Examples of these physical characteristics include the following:

- (A) A clear and natural line impressed on the bank.
- (B) Shelving.
- (C) Changes in character of the soil.
- (D) The destruction of terrestrial vegetation.
- (E) The presence of litter or debris.

(2) Notwithstanding subdivision (1), the shore of Lake Michigan at five hundred eighty-one and five-tenths (581.5) feet I.G.L.D., 1985 (five hundred eighty-two and two hundred fifty-two thousandths (582.252) feet N.G.V.D., 1929). (*Natural Resources Commission; 312 IAC 1-1-26; filed Dec 1, 1995, 10:00 a.m.: 19 IR 659; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA*)

Therefore, the DNR is requesting the deletion of the language referring to banks in 312 IAC 9-8-6 (i)(2). The amended language would read as follows:

(2) Commercial fishing gear cannot be used within fifty (50) yards of the mouth of a stream denoted by a line drawn from point to point across a stream at its farthest most downstream location at the existing water level or ordinary high watermark, whichever is lowest.

Upon further review, the DNR believes that the language in 312 IAC 9-8-7(a) that requires a roe harvester's license to take, possess, or sell roe-bearing species will create a conflict with current rule language in 312 IAC 9-7-14 and 312 IAC 9-7-20 that allow bowfin and shovelnose sturgeon to be taken under a sport fishing license, as long as the sturgeon is at least 25 inches in fork length. Since both of these species are roe-bearing species and could still be taken with a sport fishing license, a modification is needed in 312 IAC 9-8-7(a) to prevent a conflict with these

existing rules. The roe from these species could still not be harvested and sold without a roe harvester's license, and no part of the fish could be sold without a roe harvester's license.

The amended language in 312 IAC 9-8-7(a) would read as follows:

(a) An individual must not take, possess, or sell roe-bearing species without a valid roe harvester's license, except for bowfin and shovelnose sturgeon that are taken in accordance with 312 IAC 9-6 and 312 IAC 9-7.

As the result of public comments, the DNR would like to modify the language in 312 IAC 9-8-7(f)(8) by removing the word "screening." This change will allow a licensed roe harvester to screen and wash the eggs before selling the roe to a licensed roe dealer, but not salt or otherwise process the eggs. The screening of the eggs must still be done in compliance with 21 CFR 123 in an FDA approved facility.

The amended rule language would read as follows in 312 IAC 9-8-7(f)(8) and (g):

(8) Leave the roe intact and inside the body of the fish while on the body of water or adjacent to the water being fished and until processing begins in accordance with 21 CFR 123, not to include the salting or otherwise processing of the roe unless licensed as a roe dealer under 312 IAC 9-8-8.

(g) A roe harvester may:

(1) Sell the meat of an individual roe-bearing species of fish that does not contain roe to any other person.

(2) Screen and wash the roe in accordance with 21 CFR 123, not to include the salting or otherwise processing of the roe, unless licensed as a roe dealer under section 8 of this rule.

Since roe dealer licenses can be issued to a person by state law in IC 14-22-13-2.5(e), and the definition of a "person" can be an individual or a business, the DNR believes that multiple employees or other helpers could help process the roe under one roe dealer license issued to one business. The definition of "person" is as follows:

IC 14-8-2-202

"Person"

Sec. 202. (a) "Person" means, except as provided in subsections (b) through (j), an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, or a corporation.

If the roe dealer license is issued to a business, the president or other individual in charge of the business is responsible for ensuring compliance with all provisions of 312 IAC 9-8-8 and any other applicable laws.

EXHIBIT C**TITLE 312 NATURAL RESOURCES COMMISSION****Final Rule**

LSA Document #12-381(F)

DIGEST

Adds 312 IAC 9-1-9.7 to define the term "inland water". Adds 312 IAC 9-1-13.5 to define the term "seine". Amends 312 IAC 9-6-2 to clarify the measurement of paddlefish. Amends 312 IAC 9-7-17 governing fishing guide licenses to change the title of the license to a fishing guide license. Amends 312 IAC 9-7-19 to specify that a roe harvester's license is required to take paddlefish from public waters. Amends 312 IAC 9-8-1 governing commercial fishing by adding general requirements and definitions of terms used throughout 312 IAC 9-8. Amends 312 IAC 9-8-2 governing commercial fishing except on the Ohio River to clarify the bodies of water where the license is valid, specify that a roe harvester's license is required to take shovelnose sturgeon, and allow a license holder to submit an inactive license form. Amends 312 IAC 9-8-4 governing commercial fishing on the Wabash River boundary waters to change the length of a seine and other technical changes. Amends 312 IAC 9-8-5 governing commercial fishing on inland water by making technical changes. Amends 312 IAC 9-8-6 governing commercial fishing on the Ohio River to clarify that shovelnose sturgeon and paddlefish can be taken only with a roe harvester's license, prohibit the use of gear within 50 yards of a bay or inlet, clarify tagging requirements for seines and nets, and allow a license holder to submit an inactive license form. Adds 312 IAC 9-8-7 governing the roe harvester's license for the harvest, possession, or sale of roe. Adds 312 IAC 9-8-8 governing a roe dealer's license for the purchasing and processing of roe. Effective 30 days after filing with the Publisher.

312 IAC 9-1-9.7; 312 IAC 9-1-13.5; 312 IAC 9-6-2; 312 IAC 9-7-17; 312 IAC 9-7-19; 312 IAC 9-8-1; 312 IAC 9-8-2; 312 IAC 9-8-4; 312 IAC 9-8-5; 312 IAC 9-8-6; 312 IAC 9-8-7; 312 IAC 9-8-8

SECTION 1. 312 IAC 9-1-9.7 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-1-9.7 "Inland water" defined

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 9.7. "Inland water" means the:

(1) water of the state; and

(2) boundary waters of the state, except Lake Michigan and the Ohio River.

(Natural Resources Commission; 312 IAC 9-1-9.7)

SECTION 2. 312 IAC 9-1-13.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-1-13.5 "Seine" defined

Authority: IC 14-10-2-4; IC 14-22-2-6
Affected: IC 14-22

Sec. 13.5. "Seine" means a net that is constantly attended and pulled through the water for the entrapment of fish. (*Natural Resources Commission; 312 IAC 9-1-13.5*)

SECTION 3. 312 IAC 9-6-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-6-2 Fish measurement

Authority: IC 14-10-2-4; IC 14-22-2-6
Affected: IC 14-22

Sec. 2. (a) Except as provided in subsections (b) and (c), the measurement of the length of a fish must be taken in a straight line from the tip of the snout with the mouth closed to the utmost end of the caudal (tail) fin when the fin is compressed so that the upper and lower lobes of the fin touch or overlap.

(b) The measurement of the fork length of shovelnose sturgeon must be taken in a straight line from the tip of the snout to the fork of the tail fin.

(c) The measurement of the eye to fork length of paddlefish must be taken in a straight line from the **foremost point of the** eye to the fork of the tail fin. (*Natural Resources Commission; 312 IAC 9-6-2; filed May 12, 1997, 10:00 a.m.: 20 IR 2715; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Feb 27, 2007, 2:25 p.m.: 20070328-IR-312060262FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Aug 28, 2009, 3:39 p.m.: 20090923-IR-312080886FRA*)

SECTION 4. 312 IAC 9-7-17 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-7-17 Fishing guide license

Authority: IC 14-10-2-4; IC 14-22-2-6
Affected: IC 14-22-15-4

Sec. 17. (a) An individual may not take another individual sport fishing for hire on

~~(1) Indiana waters;~~

~~(2) waters containing state-owned fish; or~~

~~(3) state boundary waters or~~

inland water without a ~~charter~~ fishing ~~boat operator's~~ **guide** license issued by the director under IC 14-22-15-4 and this section.

(b) A license holder under this section shall, on a departmental form, keep legible and accurate daily fishing records of the:

(1) species;

(2) numbers, locations, and dates of fish taken; and

(3) number of fishermen and hours fished;

while engaged in ~~charter~~ **guided** fishing **activity**. These daily records shall be recorded before the licensed fishing person departs the boat **or leaves the fishing guide** at the conclusion of the fishing trip.

(c) A license holder under this section shall, on a departmental form, prepare a monthly report of the information maintained on the daily fishing records. The monthly report shall be submitted to the ~~director or the director's representative~~ **division of fish and wildlife** before the fifteenth day of each month following the month covered. The report shall be submitted each month regardless of whether ~~charter~~ **guided** fishing activity occurs in the month covered unless the license holder has submitted an inactive license form to signify that no fishing activity will take place for the remainder of the calendar year. The inactive license form shall be ~~submitted~~ **submitted** to the ~~director or the director's representative~~ **division of fish and wildlife** before the fifteenth day of the month following the month the license is deemed inactive.

(d) ~~The director or the director's~~ **A conservation officer or other authorized representative of the department** may, at any reasonable time, inspect the daily fishing records required under subsection (b) or IC 14-22-15-4. (*Natural Resources Commission; 312 IAC 9-7-17; filed May 12, 1997, 10:00 a.m.: 20 IR 2721; filed May 28, 1998, 5:14 p.m.: 21 IR 3723; filed Dec 26, 2001, 2:40 p.m.: 25 IR 1540; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA*)

SECTION 5. 312 IAC 9-7-19 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-7-19 Paddlefish

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 19. Except as provided in ~~312 IAC 9-8-6~~ **312 IAC 9-8-7** with a ~~commercial fishing~~ **an Ohio River roe harvester's** license, a person must not take ~~or possess~~ paddlefish from any ~~public~~ **water of the state**. (*Natural Resources Commission; 312 IAC 9-7-19; filed May 28, 1998, 5:14 p.m.: 21 IR 3723; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Aug 28, 2009, 3:39 p.m.: 20090923-IR-312080886FRA*)

SECTION 6. 312 IAC 9-8-1 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-8-1 General requirements and definitions

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-13

Sec. 1. (a) This rule applies to a person who is issued a commercial fishing license by the department.

(b) The following definitions apply throughout this rule:

(1) "Caviar" means the processed, salted, nonfertilized roe.

(2) "Helper" means any individual who accompanies and assists a commercial fishing license holder or licensed roe harvester in the harvest, possession, transportation, or sale of fish.

(3) "Roe" means the internal egg mass in an ovary or the female gametes, but not caviar.

(4) "Roe-bearing species" means the following species:

(A) Shovelnose sturgeon.

(B) Paddlefish.

(C) Bowfin.

(5) "Roe dealer" means a person who possesses a valid roe dealer's license issued under section 8 of this rule to purchase, process, transport, and sell roe.

(6) "Roe harvester" means an individual who possesses a valid roe harvester's license issued under section 7 of this rule to harvest, possess, transport, begin processing, and sell, but not purchase, roe.

(c) A commercial fishing license holder, licensed roe harvester, or roe dealer who possesses or sells a fish described in this article must comply with 312 IAC 9-6-11. The bill of lading and the shipment must be made available upon request for inspection by a conservation officer.

(d) The department shall not issue a commercial fishing license, roe harvester's license, or roe dealer's license to an individual whose sport fishing, commercial fishing, roe dealer, or roe harvester license has been suspended or revoked, during the term of the suspension or revocation.

(e) A helper of a commercial fishing license holder or licensed roe harvester must:

(1) be in the same boat as the license holder while participating in commercial fishing or the harvesting of roe-bearing species on waters open to commercial fishing;

(2) only transport, carry, or ship lawfully harvested fish with a bill of lading in accordance with 312 IAC 9-6-11(a).

(f) A commercial fishing license holder or licensed roe harvester shall not allow an individual who has a sport fishing, commercial fishing, roe dealer, or roe harvester license suspended or revoked, either by a court or administrative process, in Indiana or any other jurisdiction, to serve as a helper during the term of the suspension or revocation.

(g) The cutting or mutilation of live roe-bearing species to check for eggs is prohibited except that a 10-gauge needle may be inserted into the abdomen between the pectoral and pelvic fins to determine the presence of eggs. *(Natural Resources Commission; 312 IAC 9-8-1; filed May 12, 1997, 10:00 a.m.: 20 IR 2721; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)*

SECTION 7. 312 IAC 9-8-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-8-2 Commercial fishing except on the Ohio River; general provisions

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-13; IC 14-22-14

Sec. 2. (a) This section applies to license holders engaged in commercial fishing on
(1) ~~waters of the state;~~
(2) ~~boundary waters; or~~
(3) ~~waters containing state-owned fish;~~
other than the Ohio River. inland water.

(b) For purposes of this section, "license holder" means an individual licensed under IC 14-22-13 to use in, and to possess for use in, the water, seines, nets, or other commercial fishing gear authorized in this rule. ~~The term includes an individual commercially fishing while accompanied by the licensee as specified at IC 14-22-13-4.~~

(c) A license holder may take or sell fish with a commercial fishing license issued under this rule and 312 IAC 9-6-11. A license holder may take fish with the aid of illumination of:

- (1) a spotlight;
 - (2) a searchlight; or
 - (3) an artificial light;
- where lawfully engaged in commercial fishing.

(d) A license holder subject to this rule must not possess trout or salmon.

(e) A license holder must not possess or sell any of the following taken from the waters described in subsection (a):

- (1) Chubs.
- (2) Northern pike.
- (3) Chain pickerel.
- (4) Muskellunge.
- (5) Tiger muskellunge.
- (6) White bass.
- (7) Yellow bass.
- (8) Striped bass.
- (9) Hybrid striped bass.
- (10) Walleye.
- (11) Sauger.
- (12) Saugeye.
- (13) Smallmouth bass.
- (14) Largemouth bass.
- (15) Spotted bass.
- (16) Bluegill.
- (17) Redear sunfish.
- (18) Rock bass.
- (19) Crappie.
- (20) American eel.
- (21) Paddlefish.

- (22) Lake sturgeon.
- (23) Lake herring.
- (24) Blue catfish less than ten (10) inches long.
- (25) Channel catfish less than ten (10) inches long.
- (26) Flathead catfish less than ten (10) inches long.
- (27) Lake whitefish less than eighteen (18) inches long.
- (28) Yellow perch.

(f) A license holder may take and sell shovelnose sturgeon that are at least twenty-five (25) inches ~~measured in fork length~~ **accordance with 312 IAC 9-6-2(b)** only from October 1 through May 31 **and only with a valid inland water roe harvester's license.**

~~(g) A license holder who possesses or sells a fish described in this section must comply with 312 IAC 9-6-11.~~

~~(h)~~ (g) A license holder must report fish catches as follows:

(1) A license holder under this section shall keep accurate daily records on a departmental form of the following:

- (A) The pounds and species of fish caught.
- (B) The number of pieces of each type of gear fished by date.
- (C) The county fished.

The license holder shall submit the completed form to the division by the fifteenth day of each month for the preceding month whether the license holder fished or not **unless the license holder has submitted an inactive license form to signify that no commercial fishing will take place on inland water for the remainder of the calendar year. The inactive license form shall be submitted to the division of fish and wildlife before the fifteenth day of the month following the month the license is deemed inactive.** The license holder shall allow onboard and dockside inspections of the gear and catch at any time by ~~the director or the director's~~ **a conservation officer or other authorized representative of the department.**

(2) A license holder for Lake Michigan must comply with the reporting requirements of IC 14-22-14-23 and section 3(h) of this rule.

(Natural Resources Commission; 312 IAC 9-8-2; filed May 12, 1997, 10:00 a.m.: 20 IR 2721; filed May 28, 1998, 5:14 p.m.: 21 IR 3724; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Feb 27, 2007, 2:25 p.m.: 20070328-IR-312060262FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Jul 6, 2010, 1:55 p.m.: 20100804-IR-312090616FRA)

SECTION 8. 312 IAC 9-8-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-8-4 Commercial fishing on the Wabash River boundary waters

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-13

Sec. 4. (a) This section applies to commercial fishing conducted on the **part of the Wabash River that forms the boundary waters between Indiana and Illinois and Indiana** and is supplemental to section 2 of this rule.

(b) A license holder under this section may **only** use a dip-net, hoop-net, fyke-net, basket-net, basket-trap, or trap-net made of twine or cords, with or without wings or leads. ~~It is unlawful to~~ **A license holder must not use the following:**

- (1) Wings or leads constructed of any twine or cord smaller than size 9 (forty-two thousandths (0.042) inches) diameter. ~~It is unlawful to use~~
- (2) A net more than two hundred (200) feet long, including wings and leads. ~~It is unlawful to use~~
- (3) A net having stretch mesh less than two (2) inches. ~~It is unlawful to use~~
- (4) A net ~~seine which~~ **that** obstructs more than one-half (½) of the width of the river.

(c) A license holder may use a seine. ~~It is unlawful to~~ **A license holder must not use a seine which that exceeds two hundred (200) feet long. It is unlawful to one hundred (100) yards in length. A license holder must not use a seine having stretch mesh less than five (5) inches. It is unlawful to** **A license holder must not use a seine which that** obstructs more than one-half (½) of the width of the river.

(d) ~~Each piece of fishing gear in use~~ **A license holder must be tended tend each piece of fishing gear** not less frequently than once every forty-eight (48) hours **and all** fish taken by the gear must be removed **at that time**. Each item of gear must be removed ~~from the waters fished~~ immediately upon the completion of fishing. (*Natural Resources Commission; 312 IAC 9-8-4; filed May 12, 1997, 10:00 a.m.: 20 IR 2725; filed May 28, 1998, 5:14 p.m.: 21 IR 3727; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA*)

SECTION 9. 312 IAC 9-8-5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-8-5 Commercial fishing on inland water

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-13

Sec. 5. (a) This section applies to commercial fishing on inland ~~rivers~~ **water** of Indiana **except for the part of the Wabash River that forms the boundary between Illinois and Indiana** and is supplemental to section 2 of this rule.

(b) ~~It is unlawful to~~ **A license holder must not** conduct commercial fishing on inland ~~waters~~ **water** containing state-owned fish, ~~or water of the state~~, except for the following rivers:

- (1) The Wabash River downstream from the city limits of Lafayette to where the river forms the boundary between Indiana and Illinois.
- (2) The White River downstream from the junction of its east and west forks to where the White River joins the Wabash River.
- (3) The west fork of the White River downstream from its junction with the Eel River in Greene County to the junction of the east and west forks of the White River.

(4) The east fork of the White River downstream from its junction with the Lost River in Martin County to the junction of the east and west forks of the White River.

(5) The Patoka River three hundred (300) yards downstream of the dam below the State Road 164 bridge in the city of Jasper to where the Patoka River joins the Wabash River.

(c) A license holder under this section may **only** use hoop-nets or trap-nets made of twine or cord. ~~It is unlawful to~~ **A license holder must not use the following:**

(1) More than four (4) hoop-nets or trap-nets. ~~It is unlawful to use~~

(2) A net having a diameter, width, or height of more than six (6) feet. ~~It is unlawful to use~~

(3) A net having stretch mesh less than two (2) inches.

(d) ~~Each piece of fishing gear in use~~ **A license holder must be tended tend each piece of fishing gear** not less frequently than once every forty-eight (48) hours. Fish taken by the gear must be removed. Each item of gear must be removed ~~from the waters fished~~ immediately upon the completion of fishing. (*Natural Resources Commission; 312 IAC 9-8-5; filed May 12, 1997, 10:00 a.m.: 20 IR 2725; filed May 28, 1998, 5:14 p.m.: 21 IR 3727; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; errata filed May 13, 2010, 11:13 a.m.: 20100519-IR-312100335ACA*)

SECTION 10. 312 IAC 9-8-6 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-8-6 Commercial fishing on the Ohio River

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-13

Sec. 6. (a) This section applies to license holders engaged in commercial fishing on the Ohio River as authorized under IC 14-22-13.

(b) "License holder" means an individual licensed under IC 14-22-13 to use in, and to possess for use in, the water:

(1) seines;

(2) nets; or

(3) other commercial fishing gear.

~~The term includes an individual commercially fishing while accompanied by the licensee as specified at IC 14-22-13-4.~~

(c) A license holder shall not take or sell fish except in accordance with IC 14-22-13, this section, and 312 IAC 9-10. A license holder may take fish with the aid of illumination of:

(1) a spotlight;

(2) a searchlight; or

(3) an artificial light;

where lawfully engaged in commercial fishing.

(d) A license holder under this section may take and sell all species of fish from the Ohio River except the following:

- (1) Largemouth bass.
- (2) Smallmouth bass.
- (3) Spotted bass.
- (4) Rock bass.
- (5) White crappie.
- (6) Black crappie.
- (7) Walleye.
- (8) Sauger.
- (9) Saugeye.
- (10) Striped bass.
- (11) White bass.
- (12) Hybrid striped bass.
- (13) Yellow bass.
- (14) Muskellunge.
- (15) Northern pike.
- (16) Tiger muskellunge.
- (17) Chain pickerel.
- (18) Lake sturgeon.
- (19) Trout.
- (20) Salmon.

(e) A license holder may take and sell shovelnose sturgeon that are at least twenty-five (25) inches **measured** in ~~fork length~~ **accordance with 312 IAC 9-6-2(b)** only from October 1 through May 31 **and only with a valid Ohio River roe harvester's license.**

(f) A license holder may take and sell paddlefish that are at least thirty-two (32) inches **measured** in ~~eye to fork length~~ **accordance with 312 IAC 9-6-2(c)** only from November 1 through April 30 ~~The cutting or mutilation of live paddlefish to check for eggs is prohibited except that a 10-gauge needle may be inserted into the abdomen between the pectoral and pelvic fins to determine the presence of eggs.~~ **and only with a valid Ohio River roe harvester's license.**

(g) A license holder under this section must tag each item of gear so that a conservation officer may determine if the:

- (1) gear is properly licensed; and
- (2) license holder is complying with the law.

(h) ~~No~~ **A person shall must not** possess a seine, net, or commercial trotline except as authorized with a valid commercial fishing license for the Ohio River. This subsection does not apply to a manufacturer, retailer, or wholesale dealer who possesses gear exclusively for sale.

(i) **The use of** commercial fishing ~~nets~~ **gear** authorized under this section **is limited as follows:**

- (1) **Commercial fishing gear** cannot be used on **or within fifty (50) yards of** a bay or inlet of the Ohio River **denoted by** a line drawn from point to point ~~of a~~ **across the** bay or inlet. ~~denotes the limits of the fishing zone.~~

(2) Commercial fishing gear cannot be used within fifty (50) yards of the mouth of a stream denoted by a line drawn from point to point across a stream at its farthest most downstream location at the existing water level or ordinary high watermark, whichever is lowest.

(3) Commercial gear, except slat traps, cannot be used in the following locations:

- (4) (A) John T. Myers Dam downstream to the outer lock wall and the portion of the split channel around the southern part of Wabash Island from the fixed weir dam to the first dike.
- (2) (B) Newburgh Dam downstream to the end of the outer lock wall.
- (3) (C) Cannelton Dam downstream to the end of the outer lock wall.
- (4) (D) McAlpine Dam downstream to the K and I railroad bridge.
- (5) (E) Markland Dam downstream to the end of the outer lock wall.

(j) ~~Each item of fishing gear in use~~ **The license holder must be tended tend each item of fishing gear** not less frequently than once every twenty-four (24) hours and all fish taken by the gear removed, except that baited hoop nets or slat traps may be left unattended for not more than seventy-two (72) hours. Each item of gear must be removed ~~from the waters in which the item was fished~~ immediately upon ~~usage~~ **the completion of fishing.**

(k) Gear is authorized only as set forth as follows:

(1) Lines and mesh must be made of:

- (A) linen;
- (B) cotton; or
- (C) a flexible synthetic fiber.

(2) The following restrictions apply to a hoop net, wing net, straight lead net, or heart lead net:

- (A) Each net described in this subdivision must have a minimum bar mesh size of one (1) inch.
- (B) Hoops may be any size, shape, or material.
- (C) The maximum length of the lead or wing is sixty (60) feet.
- (D) One (1) tag must be attached to the front hoop of each net.

(3) The following restrictions apply to a gill or trammel net:

- (A) The minimum bar mesh size that can be fished from November 1 through April 30 is four (4) inches.
- (B) The only bar mesh size that can be fished from May 1 through October 31 is from four (4) inches to four and one-half (4 1/2) inches.
- (C) The nets referenced in this subdivision may be fished weighted or as a flag net.
- (D) ~~A~~ **At least one (1) tag must be attached to the net at intervals not less than for each one hundred (100) feet apart. of net or part thereof.**

(4) The following restrictions apply to a commercial trotline:

- (A) Each line must have more than fifty (50) hooks placed not closer than eighteen (18) inches apart.
- (B) One (1) tag must be attached.
- (C) The trotline must be:
 - (i) not longer than three thousand (3,000) feet, including staging; and

- (ii) fished separately rather than tied in a continuous line.
- (5) The following restrictions apply to a seine:
 - (A) A seine must have the following:
 - (i) A minimum bar mesh size of one (1) inch.
 - (ii) Both float and lead lines.
 - (iii) Wood, fiberglass, metal poles, or brails attached to each end.
 - (B) A seine in the water must be attended by individuals pulling the seine through the water for the entrapment of fish.
 - (C) A seine must have **a at least one (1) tag attached at intervals not less than for each one hundred (100) feet apart. of net or part thereof.**
- (6) The following restrictions apply to a slat trap basket:
 - (A) No wire or other mesh may be added to the trap.
 - (B) At least two (2) openings not less than one and one-fourth (1 1/4) inches wide must be located between the slats. These openings shall not be restricted by cross-bracings shorter than eight (8) inches long.
 - (C) The trap shall be not larger than two (2) feet in diameter or square end measure.
 - (D) A tag must be attached to the open ring or square.

(l) A license holder must do the following:

- (1) Keep accurate daily catch records on a departmental form of the following:
 - (A) The pounds and species of fish caught by gear type.
 - (B) The number of paddlefish and shovelnose sturgeon caught by gear type.
 - (C) The pounds of paddlefish, shovelnose sturgeon, sucker, and eggs sold.
 - (D) The location fished by pool, river mile, and county.
- (2) Submit to the department the completed form required under subdivision (1) by the fifteenth day of each month for the preceding month whether the license holder fished or not **unless the license holder has submitted an inactive license form to signify that no commercial fishing on the Ohio River will take place for the remainder of the calendar year. The inactive license form shall be submitted to the division of fish and wildlife before the fifteenth day of the month following the month the license is deemed inactive.**
- (3) Allow on-board and dockside inspection of the gear and catch at any time by ~~the director or the director's~~ **a conservation officer or other authorized** representative of the department.

(Natural Resources Commission; 312 IAC 9-8-6; filed May 12, 1997, 10:00 a.m.: 20 IR 2725; filed May 28, 1998, 5:14 p.m.: 21 IR 3727; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Feb 27, 2007, 2:25 p.m.: 20070328-IR-312060262FRA; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Aug 28, 2009, 3:39 p.m.: 20090923-IR-312080886FRA)

SECTION 11. 312 IAC 9-8-7 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-8-7 Roe harvester's license

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-13-2.5

Sec. 7. (a) An individual must not take, possess, or sell roe-bearing species without a valid roe harvester's license, except for bowfin and shovelnose sturgeon taken or possessed in accordance with 312 IAC 9-6 and 312 IAC 9-7.

(b) An individual must apply for a roe harvester's license on a departmental form.

(c) An applicant for a roe harvester's license must:

- (1) be at least eighteen (18) years of age;**
- (2) possess a valid commercial fishing license; and**
- (3) provide valid identification of all helpers on a departmental form.**

(d) The maximum annual number of roe harvester's licenses is as follows:

- (1) Fifteen (15) resident or nonresident licenses (total) for the Ohio River.**
- (2) Fifteen (15) resident licenses for inland water of the state.**

(e) The division shall prioritize the issuance of roe harvester's licenses as follows:

- (1) First, to residents of Indiana.**
- (2) Second, upon those applications by individuals who have submitted completed monthly reports to the department under this rule and who have submitted a completed renewal application no later than December 15 of the year preceding the license year requested.**
- (3) Third, upon the order the application was received by the division of fish and wildlife.**

(f) A roe harvester must do the following:

(1) Prepare a daily transaction report on a departmental form in ink for each day of the month that roe-bearing fish were harvested and include the following:

- (A) The length of the fish by species for each fish harvested.**
- (B) The number of each roe-bearing species harvested.**
- (C) The river where roe-bearing species were harvested.**
- (D) Whether the fish contains eggs or not.**
- (E) The date.**
- (F) The name of any helper.**

(2) Submit the signed daily transaction report to the department by the fifteenth day of each month for the preceding month for each day that roe-bearing fish were harvested unless the license holder has submitted an inactive license form to signify that no harvesting of roe or roe-bearing species will take place for the remainder of the calendar year. The inactive license form shall be submitted to the division of fish and wildlife before the fifteenth day of the month following the month the license is deemed inactive.

(3) Notify the department on a departmental form of any change in the list of helpers.

(4) Not allow an individual to participate in the harvest, possession, transportation, or sale of roe or roe-bearing species until the list of helpers on which the individual is identified has been received by the division.

- (5) Fish for roe-bearing species only in accordance with this rule.
- (6) Retain for at least five (5) years a copy of all records and reports required under this section.
- (7) Sell roe only to an Indiana-licensed roe dealer.
- (8) Leave the roe intact and inside the body of the fish while on the body of water or adjacent to the water being fished.

(g) A roe harvester may:

- (1) sell the meat of an individual roe-bearing species of fish that does not contain roe to any other person; and,
- (2) screen and wash the roe in accordance with 21 CFR 123, but shall not salt or otherwise process the roe, unless licensed as a roe dealer under section 8 of this rule.

(h) A roe harvester's license issued under this section is not transferable.

(i) Upon request by a conservation officer or other authorized representative of the department, a license holder must allow:

- (1) access to all records and reports required under this document upon request; and
- (2) entry and inspection of the license holder's premises, equipment, boats, vehicles, and facilities.

(Natural Resources Commission; 312 IAC 9-8-7)

SECTION 12. 312 IAC 9-8-8 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-8-8 Roe dealer's license

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22-13-2.5

Sec. 8. (a) A person must not purchase or process roe-bearing species without a valid roe dealer's license, with the exception of the meat and caviar from roe-bearing species.

(b) A person must apply for a roe dealer's license on a departmental form. A person must submit a completed renewal application no later than December 15 of the year preceding the license year requested.

(c) A person applying for a roe dealer's license must be at least eighteen (18) years of age.

(d) A roe dealer must do the following:

- (1) Not purchase fish or unprocessed roe that the roe dealer knows was taken or possessed unlawfully.**
- (2) Possess a valid roe dealer's license while purchasing, receiving, transporting, or selling unprocessed roe and processing roe.**

(3) Submit a complete, true, and accurate report to the department by the fifteenth day of the following month on a signed departmental form in ink that includes the following information:

(A) The name and license number of the roe harvester.

(B) The number of pounds of screened eggs of each roe-bearing species received.

(C) The final processed weight (caviar) of each roe-bearing species received.

(D) The date the roe or screened eggs were received for each roe-bearing species.

(4) Maintain for a period of five (5) years an accurate record of all transactions involving roe-bearing species and/or roe purchased from a roe harvester including the roe or caviar sold and the name and address of the individual or company to whom the roe or caviar was sold or transferred.

(5) Complete and sign the roe harvester's license transaction record for each transaction on a departmental form on the date of purchasing roe-bearing species from the roe harvester that includes the following information:

(A) The date the product is received.

(B) Pounds of screened eggs for each roe-bearing species of fish.

(6) Obey all state and federal laws applicable to the processing of roe and products of roe-bearing species.

(e) A roe dealer's license issued under this section is not transferable.

(f) A roe dealer must, upon request by a conservation officer or other authorized representative of the department, allow:

(1) access to all records and reports required under this document upon request; and

(2) entry and inspection of the license holder's premises, equipment, boats, vehicles, and facilities.

(Natural Resources Commission; 312 IAC 9-8-8)